

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a Contract with NORTONER to allow NORTONER to collect and recycle the City's used inkjet, toner and photocopier cartridges.

ADOPTED this 11th day of May 2004.

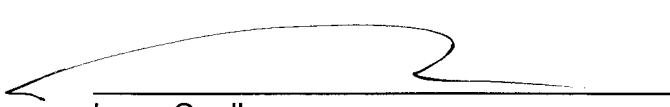
CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Lupe Cuellar
Deputy City Attorney

STATE OF TEXAS)
)
COUNTY OF EL PASO) **CONTRACT**

THIS CONTRACT, made and entered into this 11th day of May 2004, by the CITY OF EL PASO, hereinafter called the "City," and NORTONER.

WITNESSETH:

WHEREAS, recent changes in federal and state regulations pertaining to the operation of landfills receiving municipal solid waste for disposal have made it much more costly to operate such landfills, and,

WHEREAS, diverting recyclable materials from landfills to recycling programs helps increase the life of existing landfills and generally is good for the environment,

NOW, THEREFORE, for the consideration hereinafter set forth, the parties hereto do mutually agree as follows:

1. The City agrees:

a. To lease NORTONER recycling containers for the purpose of depositing used inkjet, toner and photocopier cartridges. The cost of leasing such containers will be in accordance with the existing ordinance.

b. To provide to NORTONER all of the City's used inkjet, toner and photocopier cartridges.

c. To take steps necessary to ensure that only appropriate cartridges are deposited in the recycling container.

2. NORTONER agrees:

a. To lease an adequate number of recycling containers from the City to accommodate the recycling of used inkjet, toner and photocopier cartridges.

b. To collect all used inkjet, toner and photocopier cartridges deposited in the recycling containers on a monthly basis on a schedule to be mutually determine by both parties. Locations for such containers are listed at Attachment A. Locations may be added or deleted upon the mutual agreement of the Solid Waste Department and Nortonter.

c. To develop appropriate forms to be used by the City and NORTONER to account for the number and type of used cartridges recycled by the City for the purposes of determining the amount due from NORTONER.

d. To ensure that the forms are properly filled out by both a city representative and NORTONER before removal of any used cartridges. NORTONER understands that they will not be allowed unrestricted access to city facilities and will be accompanied by city personnel when removing cartridges from city facilities.

e. Pay to the city an amount equivalent to ten percent of the gross value of the collected cartridges.

f. To conduct a monthly reconciliation report with a representative of the Solid Waste Department. The reconciliation report should list the models and quantities of cartridges collected and determine the amount due to the city. As part of the reconciliation, to provide to the City all necessary documents, to include but not limited to:

- (1) documents received from the recycling agency.
- (2) documents indicating the value of each type of cartridge during the month in which the reconciliation is conducted.
- (3) a monthly fair market analysis of residual value of cartridges based on three major brokers of used cartridges, selection of the major brokers to be mutually determined by both parties.

g. If the amount of money received by NORTONER is not reflective of the number and types of cartridges collected from the City by NORTONER, then NORTONER must justify, to the satisfaction of the Solid Waste Department the reason for the discrepancy.

h. Within thirty days of completion of the monthly reconciliation, NORTONER will provide payment due as a result of the reconciliation.

3. If NORTONER fails to complete a monthly reconciliation or fails to provide prompt payment after the monthly conciliation, then NORTONER will not be allowed to collect any used cartridges from the City until payment is made.

4. Once collected by NORTONER, NORTONER agrees and understand that the disposal of the cartridges, whether recyclable or not, is the sole responsibility of NORTONER and that such disposal shall be in accordance with local, state and federal law and requirements.

5. NORTONER agrees to indemnify, defend and hold harmless the City of El Paso, its officers, agents and employees from and against any and all loss, liability, damage, expense or claim of any nature whatsoever arising out of or incident to this Contract, which are the result of acts of negligence of NORTONER or NORTONER'S agents or employees. NORTONER shall give to the City reasonable notice of any such claims or actions. NORTONER shall use legal counsel reasonably acceptable to the City in carrying out its obligations hereunder. At a minimum, NORTONER will provide liability insurance, with the City listed as an additional insured, in the amount of one hundred thousand dollars (\$100,000.00). The provisions of this section shall survive the expiration or early termination of this Contract.

6. NORTONER agrees and understands that it is their responsibility to ensure that they comply with all local, state and federal law to include any permit requirements.

7. This Contract is for a term of three years to begin on the date the contract is approved by Council. The Contract may be terminated by either party upon sixty (60) days written notice to the other party at the following addresses:

CITY: City of El Paso
Attn: City Clerk
2 Civic Center Plaza
El Paso, Texas 79901-1196

copy to: Director
Department of Solid Waste Management
7969 San Paulo Drive
El Paso, Texas 79915

NORTONER
6418 B Pizarro Drive
El Paso, Texas 79912

After notification that contract is to be terminated, the City of El Paso agrees cease depositing any additional used cartridges into the recycling containers. NORTONER agrees to collect all used cartridges that remain in the recycling containers in accordance with the terms of this Contract.

8. For purposes of determining the law governing the same, this Agreement is entered into in the City and County of El Paso, State of Texas, and shall be governed by the laws of the State of Texas.

9. This Agreement constitutes the entire understanding of the parties hereto with respect to the subject matter hereof and no amendment, modification or alteration of the terms shall be binding unless the same be in writing, dated subsequent to the date hereof, and duly executed by the parties hereto.

IN WITNESS WHEREOF the parties have executed this agreement at El Paso, Texas this 11th day of May, 2004.

WITNESS THE FOLLOWING SIGNATURES AND SEALS:

CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

NORTOENR: _____

Name printed: Gerald Sundt

Title: Manager

APPROVED AS TO FORM:

Lupe Cuellar
Deputy City Attorney

APPROVED AS TO CONTENT:

Emma Acosta, Director
Department of Solid Waste Management